IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN ITS INSOLVENCY JURISDICATION

NOTICE OF MOTION NO.70 OF 2003

IN

INSOLVENCY PETITION NO.43 OF 2003

Re : Beena Hitesh Seth ..Debtor.

Ex-parte:

Dhanraj S. Sanghvi ..Petitioning Creditor.

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Mr. R.L. Bhatia for the Debtor.

Mr. Kishore Jain for the Petitioning Creditor.

Mr. K.B. Poojari, Official Assignee present.

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CORAM : DR.D.Y.CHANDRACHUD, J.

18th January, 2005.

P.C. :

Bank of Baroda has issued a notice dated 23rd July, 2003 under the Securitization and Reconstruction of Financial Assets and Enforcement Act, 2002. The notice provides that the total amount that is due and payable as on 8th July, 2003 was Rs.50,37,986.51. Counsel appearing on behalf of the Debtor states that the Debtor would be

agreeable if such part of the properties which have been mortgaged in favour of the Bank of Baroda are sold so that the claim of the Bank can be met in full. Counsel has also agreed that the surplus can be credited to the account of the suit which the Petitioning Creditor may institute for the recovery of its dues to the extent of the claim of the Petitioning Creditor which is stated to be Rs.8,56,000/- approximately, without prejudice to the entitlement of the Debtor to apply before the appropriate Court for vacating the order for furnishing of security (on the basis of the merits of the suit which the Petitioning Creditor may institute). The Official Assignee is directed to issue notice to the Bank of Baroda at the branch office at Kandivali (West) and to their advocates M/s. M.V. Kini & Co. who have issued the notice dated 23rd July, 2003 to appear before this Court on 1st February, 2005.